

3/14/2016 11:15 am

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

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THOMAS GESUALDI, LOUIS BISIGNANO,
ANTHONY D'AQUILA, MICHAEL O'TOOLE,
MICHAEL BOURGAL, FRANK H. FINKEL,
JOSEPH A. FERRARA, SR., MARC HERBST,
DENISE RICHARDSON, and THOMAS
CORBETT, as Trustees and fiduciaries of the
Local 282 Welfare Trust Fund, the Local 282
Pension Trust Fund, the Local 282 Annuity Trust
Fund, the Local 282 Job Training Trust Fund,
and the Local 282 Vacation and Sick Leave
Trust Fund,

ADOPTION ORDER
14-cv-7091 (ADS)(ARL)

Plaintiffs,

-against-

INTERSTATE DEVELOPMENT
GROUP, INC.,

Defendant.

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APPEARANCES:

Trivella & Forte LLP

Attorneys for the Plaintiffs

1311 Mamaroneck Avenue, Suite 170
White Plains, NY 10605

By: James Robert Grisi, Esq.
Jonathan Michael Bardavid, Esq.
Gina Elyse Nicotera, Esq., Of Counsel

SPATT, District Judge.

On December 4, 2014, the Plaintiffs Thomas Gesualdi, Louis Bisignano, Anthony D'Aquila, Michael O'Toole, Michael Bourgal, Frank H. Finkel, Joseph A. Ferrara, Sr., Marc Herbst, Denise Richardson, and Thomas Corbett, as Trustees and Fiduciaries of the Local 282 Welfare Trust Fund, the Local 282 Pension Trust Fund, the Local 282 Annuity Trust Fund, the Local 282 Job Training Trust Fund, and the Local 282 Vacation and Sick Leave Trust Fund

(collectively, the “Plaintiffs”) commenced this action against the Defendant Interstate Development Group Inc. (the “Defendant”) for violations of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1145 and § 1132(a), *et seq.*, and the Labor Management Relations Act of 1947, 29 U.S.C. § 185.

On January 29, 2015, the Clerk of the Court noted the default of the Defendant.

On August 14, 2015, Plaintiffs moved for entry of a default judgment against the Defendant, which the Court subsequently referred to United States Magistrate Judge Arlene R. Lindsay for a recommendation as to whether a default judgment should be granted and if so, whether damages should be awarded.

On February 23, 2016, Judge Lindsay issued a report recommending that the Plaintiffs’ motion for a default judgment be granted (the “R&R”). In addition, the R&R recommended that the Plaintiffs be awarded (1) \$134,448.31 in unpaid contributions; (2) interest on the total amount of unpaid contributions in the amount of \$174,149.69 calculated through August 1, 2015, plus additional daily interest in the amount of \$66.30 accruing from August 2, 2015 through the date judgment is entered; (3) \$174,149.69 in liquidated damages on the unpaid contributions calculated through August 1, 2015, plus additional daily interest in the amount of \$66.30 accruing from August 2, 2015 through the date judgment is entered; (4) \$908.16 in underpaid contributions; (5) interest on the total amount of underpaid contributions in the amount of \$1,197.58 calculated through August 1, 2015, plus additional daily interest in the amount of \$.45 accruing from August 2, 2015 through the date judgment is entered; (6) \$1,197.58 in liquidated damages on the underpaid contributions calculated through August 1, 2015, plus additional daily interest in the amount of \$.45 accruing from August 2, 2015 through the date judgment is

entered; (7) attorneys' fees and costs in the amount of \$8,969.99; and (8) audit fees in the amount of \$350.00.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the February 19, 2016 R&R for clear error, and finding none, now concurs in both its reasoning and its result. See Coburn v. P.N. Fin., No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Clerk of the Court is directed to enter judgment in favor of the Plaintiffs and to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 14, 2016

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge